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5 Attorneys for Defendant  
GERLING AMERICA INSURANCE COMPANY

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

10 FIREMAN'S FUND INSURANCE ) CASE NO.: 3:07-cv-06302-CRB  
COMPANY, a foreign corporation a/s/o )  
11 BASIC RESOURCES, INC. and GEORGE )  
REED, INC., a foreign corporation, )  
12 Plaintiff, )  
13 vs. )  
14 GERLING AMERICA INSURANCE ) Date: August 8, 2008  
COMPANY, a foreign corporation, ) Time: 10:00 AM  
15 ) Courtroom: 8  
16 Defendant. )

I, Thomas R. Beer, hereby declare as follows:

20       1. I am an attorney licensed to practice in all the courts in the State of California and am a  
21 partner with Barger & Wolen LLP, attorneys for Defendant Gerling America Insurance Company. I  
22 make this declaration in support of Defendant Gerling's Motion for Summary Judgment. I have  
23 personal knowledge of the facts declared herein and if called upon to testify can and will testify  
24 competently thereto.

25        2. Attached hereto as Exhibit A is a true and correct copy of the written contract between  
26 Gencor Industries, Inc. and George Reed, Co. for the purchase of a 12,000 pound stationary asphalt  
27 plant, dated February 8, 2000.

3. Attached hereto as Exhibit B is a true and correct copy of the letter dated May 23, 2001 from counsel for Gerling to John Elliott of Gencor Industries, Inc. to inform Gencor that Gerling was reserving its rights on its duty to defend and indemnify Gencor for the claims made by FFIC.

4. Attached hereto as Exhibit C is a true and correct copy of the letter dated May 14, 2007 from counsel for Gerling to counsel for Gencor Industries, Inc. to inform Gencor that Gerling was declining coverage for the claims made by FFIC against Gencor.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct.

Executed on July 3, 2008 in San Francisco, California.

/s/ Thomas R. Beer  
THOMAS R. BEE